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No. Pages: 14

Instrument: EFILING INDEX NUMBER

Control #: 201910151734
Index #: E2019009786

Date: 10/15/2019

Sparks, Darren

Time: 4:55:24 PM

The Center for Youth Services, Inc.,

State Fee Index Number	\$165.00
County Fee Index Number	\$26.00
State Fee Cultural Education	\$14.25
State Fee Records Management	\$4.75
	Employee: RR

Total Fees Paid: \$210.00

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE-----X
DARREN SPARKS,

Plaintiff,

-against-

THE CENTER FOR YOUTH SERVICES, INC.

Defendant.
-----X**SUMMONS**Plaintiff(s) designate
MONROE County as the place
of trial.The basis of the venue is
Plaintiff ResidencePlaintiff(s) reside at
498-B Ridge Road
Webster, NY 14580Index No.:
Date Summons &
Complaint Filed:**To the above named Defendant(s)**

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the service of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, New York
September 26, 2019

By: _____
Brett A. Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 9005452

TO: The Center for Youth Services, Inc.
905 Monroe Avenue
Rochester, NY 14620

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

X

DARREN SPARKS,

VERIFIED COMPLAINT

Plaintiff

Index No.:

Jury Trial Demanded

-against-

THE CENTER FOR YOUTH SERVICES, INC.

Defendant.

X

Plaintiff, **DARREN SPARKS**, by his attorneys Parker Waichman LLP, complaining of the defendant, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, **DARREN SPARKS**, was a resident of the County of Monroe, State of New York.
2. At all times herein mentioned, defendant, THE CENTER FOR YOUTH SERVICES, INC., was and is a domestic not-for profit corporation. Defendant THE CENTER FOR YOUTH SERVICES, INC., includes, but is not limited to the organization and any other organization and/or entities operating under the same or similar name with the same or similar principal place of business.
3. At all times herein mentioned, THE CENTER FOR YOUTH SERVICES, INC., had and continues to have continuous and systematic contacts throughout the State of New York, including but not limited to Monroe County.
4. At all times herein mentioned, Raymond Heberle was a supervisor, counselor, agent at THE CENTER FOR YOUTH SERVICES, INC., of which Plaintiff was a member. At all material times, Raymond Heberle remained under the direct supervision, employ and control of

defendants. Defendant placed Raymond Heberle in positions where he had access to and worked with children as an integral part of his work.

5. Plaintiff was a youth member of THE CENTER FOR YOUTH SERVICES, INC., home in Rochester and came into contact with Raymond Heberle as an agent and representative of defendants.

6. Through his participation in THE CENTER FOR YOUTH SERVICES, INC., plaintiff developed great admiration, trust and respect for the organization and came to know Raymond Heberle as his counselor, supervisor, counselor agent, mentor and authority figure. During and through his activities with THE CENTER FOR YOUTH SERVICES, INC., plaintiff, **DARREN SPARKS** as an infant and vulnerable child, was dependent upon defendants and Raymond Heberle. Defendants had custody of plaintiff and accepted the entrustment of plaintiff to them and therefore had responsibility for plaintiff and authority over plaintiff.

7. From approximately January 1, 1991, when plaintiff **DARREN SPARKS** was approximately fifteen (15) years old, Raymond Heberle engaged in unlawful sexual conduct with the infant plaintiff **DARREN SPARKS**.

8. Defendant have known for decades that sexual predators had infiltrated scouting, because they desired positions around children due to their sexual interest in children. Defendant knew or should have known of the danger that pedophiles presented to children participating in group homes before plaintiff was abused.

9. Upon information and belief, THE CENTER FOR YOUTH SERVICES, INC., has failed to report multiple allegations of sexual abuse of children by its supervisors, counselors and agents to the proper authorities. As a result, children continue to be at risk of child sexual abuse.

10. Defendant THE CENTER FOR YOUTH SERVICES, INC., continues to conceal important information about the supervisors, counselors and agents, accused of sexual misconduct

with minors. As a result, children are at risk of being sexually molested.

11. Because of his childhood sexual abuse, Plaintiff **DARREN SPARKS**, is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENCE HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

12. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 1 as if fully set forth herein.

13. The sexual abuse of children by adults, including supervisors, counselors and agents, is foreseeable.

14. THE CENTER FOR YOUTH SERVICES, INC., at all relevant times, held its meetings and activities out to the community as a safe and protected environment for childhood learning and participating in youth activities.

15. At all relevant times, defendant THE CENTER FOR YOUTH SERVICES, INC., was under an express and/or implied duty to protect and care for plaintiff, an infant placed in their care.

16. THE CENTER FOR YOUTH SERVICES, INC., negligently hired, retained, directed and supervised Raymond Heberle because they knew or should have known that Raymond Heberle posed a threat of sexual abuse of infants and children such as plaintiff.

17. THE CENTER FOR YOUTH SERVICES, INC., knew or should have known that Raymond Heberle had a propensity to engage in the conduct which caused plaintiff's injuries prior to or about the time of the occurrence of these injuries.

18. THE CENTER FOR YOUTH SERVICES, INC., owed a duty of care to all minors, including the infant plaintiff, who were likely to come under the influence or supervision of Raymond Heberle in his role as supervisors, counselors and agents to ensure that Raymond

Heberle did not use his assigned position to injure infants by sexual assault, sexual abuse or sexual contact.

19. Raymond Heberle sexually assaulted, sexually abused and/or had sexual contact with plaintiff on defendants' premises, including 905 Monroe Avenue, Rochester, NY 14620

20. Defendant was put on notice of Raymond Heberle improper and inappropriate actions toward minors.

21. THE CENTER FOR YOUTH SERVICES, INC., was negligent in failing to properly supervise Raymond Heberle.

22. At all relevant times, THE CENTER FOR YOUTH SERVICES, INC., was willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff.

23. As a direct and proximate result of THE CENTER FOR YOUTH SERVICES, INC., 's above described omissions, plaintiff has suffered and will continue to suffer the injuries described herein.

24. By reason of the foregoing, the Defendant is liable to plaintiff for compensatory damages and punitive damages, together with costs and interest.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

25. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 24 as if fully set forth herein.

26. THE CENTER FOR YOUTH SERVICES, INC., knew or negligently failed to know that Raymond Heberle posed a threat of sexual abuse to children.

27. At all relevant times, THE CENTER FOR YOUTH SERVICES, INC., owed a duty to plaintiff to use reasonable care to ensure his safety, health and well-being because they had

invited plaintiff to engage in a close relationship with Raymond Heberle and had undertaken to act *in loco parentis* on behalf of plaintiff during meeting, events and campouts. THE CENTER FOR YOUTH SERVICES, INC., had the duty to ensure that plaintiff and all children associated with THE CENTER FOR YOUTH SERVICES, INC., were safe from foreseeable harm posed by adult supervisors, counselors and agents.

28. THE CENTER FOR YOUTH SERVICES, INC., had the duty to exercise reasonable diligence to ensure that the children involved in THE CENTER FOR YOUTH SERVICES, INC would be safe from foreseeable harm from any adult at THE CENTER FOR YOUTH SERVICES, INC.

29. The duties of THE CENTER FOR YOUTH SERVICES, INC., included using reasonable care in the authorization, approval, screening, investigation, retention, assignment, authorization and/or supervision of supervisors, counselors and agents who would not pose a foreseeable threat to the safety, care, health and well-being of infants involved in their youth activities.

30. THE CENTER FOR YOUTH SERVICES, INC., additionally had the duty and the power to remove any adult leader who posed a foreseeable harm to children.

31. Based upon, among other things, the obvious grooming tactics and inappropriate touching of young boys posed a foreseeable harm to infants. Upon information and belief, this information was known at all relevant times to THE CENTER FOR YOUTH SERVICES, INC., THE CENTER FOR YOUTH SERVICES, INC., was aware that Raymond Heberle posed a grave danger of sexual abuse of male infants while he was assigned to THE CENTER FOR YOUTH SERVICES, INC.

32. Upon information and belief, THE CENTER FOR YOUTH SERVICES, INC., knew that Raymond Heberle engaged in inappropriate conduct and contact with THE CENTER

FOR YOUTH SERVICES, INC., members and was thus unfit, dangerous and posed a foreseeable threat to the health, safety and welfare of plaintiff.

33. Despite this knowledge, THE CENTER FOR YOUTH SERVICES, INC., breached its duty to protect infants from foreseeable harm by choosing not to investigate, supervise or remove Raymond Heberle from his position as supervisor, counselor and agent or otherwise warn the infants in his care or their parents.

34. THE CENTER FOR YOUTH SERVICES, INC., breached its duty to protect plaintiff from foreseeable harm by failing to use reasonable care to provide a safe environment for plaintiff where he would be free from the unwanted sexual advances and dangerous propensities of Raymond Heberle, a supervisor, counselor and agent of THE CENTER FOR YOUTH SERVICES, INC., also breached its duties by failing to investigate and/or misrepresenting its awareness of facts regarding Raymond Heberle that created a likely and foreseeable harm to plaintiff.

35. Upon information and belief, despite knowledge of Raymond Heberle's foreseeable threat to the health, safety and welfare of infants, THE CENTER FOR YOUTH SERVICES, INC., continued to provide Raymond Heberle with unsupervised and unfettered access to infants, including plaintiff while in a position of power and control over them.

36. As the result of THE CENTER FOR YOUTH SERVICES, INC., 's failure to carry out its duty to plaintiff, as described above, plaintiff was caused to experience severe psychological injuries and the loss of enjoyment of life. These injuries are persistent, permanent and debilitating in nature.

THIRD CAUSE OF ACTION BREACH OF FIDUCIARY DUTY

37. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1

through 36 as if fully set forth herein.

38. Raymond Heberle and plaintiff were in a fiduciary relationship. Raymond Heberle was in a position of trust and confidence with plaintiff. Plaintiff looked to Raymond Heberle for counseling and guidance.

39. THE CENTER FOR YOUTH SERVICES, INC., was in a fiduciary relationship with plaintiff. THE CENTER FOR YOUTH SERVICES, INC., was in a position of trust and confidence with plaintiff. Plaintiff looked to THE CENTER FOR YOUTH SERVICES, INC., and its representatives for counseling and guidance. THE CENTER FOR YOUTH SERVICES, INC., owed plaintiff a duty to:

- a) warn plaintiff and his parents of the potential for harm from Raymond Heberle;
- b) disclose its awareness of facts regarding that created a likely potential for harm;
- c) disclosure its awareness that pedophiles joined group homes at alarming rates and that Raymond Heberle was engaging in behavioral patterns and grooming techniques consistent with these known pedophiles;
- d) disclose its negligence with regard to the supervision, assignment and retention of;
- e) provide a safe environment for plaintiff where he would be free from sexual abuse;
- f) protect plaintiff from exposure to harmful individuals like Raymond Heberle; and
- g) adequately investigate Raymond Heberle prior to and after approval as a supervisor, counselor and agent.

40. THE CENTER FOR YOUTH SERVICES, INC., breached its fiduciary duty to plaintiff by failing to:

- a) warn plaintiff of the potential for harm by =;
- b) disclose its awareness of facts regarding that created a likely potential for harm;
- c) disclose its awareness that pedophiles join THE CENTER FOR YOUTH SERVICES, INC., at alarming rates and that Raymond Heberle was engaging in behavioral patterns and grooming techniques consistent with these known pedophiles;
- d) disclose its own negligence with regard to supervision, assignment and retention of;
- e) provide a safe environment for plaintiff where he was free from abuse;
- f) protect plaintiff from exposure to harmful individuals like Raymond Heberle and
- g) adequately investigate prior to and after approval as a scoutmaster.

41. At all relevant times, the actions and/or inactions of THE CENTER FOR YOUTH SERVICES, INC., were willful, malicious, wanton, reckless and outrageous in their disregard for the rights and safety of plaintiff.

42. As a direct result of defendant's conduct, plaintiff has suffered injuries and damages described herein.

43. By reason of the foregoing, Defendant is liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY**

44. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 43 as of fully set forth herein.

45. When he was a minor, plaintiff was placed in the care of THE CENTER FOR

YOUTH SERVICES, INC., for the purposes of providing plaintiff with a safe environment in which to participate in youth activities. There was thus created a non-delegable duty of trust between plaintiff and defendants.

46. Plaintiff was a vulnerable child when placed in the care of THE CENTER FOR YOUTH SERVICES, INC.

47. Defendant THE CENTER FOR YOUTH SERVICES, INC., were in the best position to prevent plaintiff from being abused and/or to have learned of the repeated abuse by Raymond Heberle and to have stopped it.

48. As evidenced by the fact that plaintiff was sexually abused as a minor child entrusted to the care of the defendant, this defendant breached their non-delegable duty to plaintiff.

49. At all relevant times, Raymond Heberle was under the management, supervision, employment, direction and/or control of defendant THE CENTER FOR YOUTH SERVICES, INC.

50. As a result of the sexually abusive conduct of, plaintiff suffered the injuries and damages described herein, the full extent of which is unknown at present.

51. By reason of the foregoing, defendant is liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

52. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 51 above as if set forth at length herein.

53. As described above, defendant THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle acted in a negligent and/or grossly negligent manner.

54. The actions of defendant THE CENTER FOR YOUTH SERVICES, INC., and

Raymond Heberle endangered plaintiff's safety and caused him to fear for his own safety.

55. As a direct and proximate result of the actions of THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle, which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

56. By reason of the foregoing, Defendant is liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest.

**SIXTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS***

57. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 56 as if set forth at length herein.

58. While he was a minor, plaintiff was entrusted by his parents to the control of the defendant THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle for the purposes of providing plaintiff with the opportunity to participate in youth activities sponsored by defendant. During the times that plaintiff participated in youth activities, he was under the supervision and control of defendants THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle. This defendant at all relevant times and now, owed and owe a duty to children entrusted in their care to act *in loco parentis* and to prevent foreseeable injuries.

59. Defendant THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle breached their duty to act *in loco parentis*.

60. At all relevant times the actions of defendant THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle were willful, malicious, wanton, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of plaintiff.

61. As a direct result of defendant conduct, plaintiff has suffered the injuries and

damages described herein.

62. By reason of the foregoing, defendant is liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

SEVENTH CAUSE OF ACTION
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE

63. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 62 as if fully set forth herein.

64. Pursuant to N.Y. Social Services Law §§413, 420, defendants THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle had a statutory duty to report the reasonable suspicion of abuse of children in their care.

65. Defendant THE CENTER FOR YOUTH SERVICES, INC., and Raymond Heberle breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by children in their care.

66. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described above.

67. By reason of the foregoing, defendant is liable to plaintiff for compensatory damages and punitive damages, together with costs and interest.

WHEREFORE, plaintiff demands judgment against defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;

NYSCED No. NO. 1

RECEIVED NYSCEF: 10/15/2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

DARREN SPARKS,

Plaintiff,

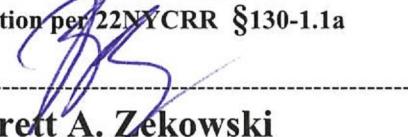
-against-

THE CENTER FOR YOUTH SERVICES, INC.

Defendant.

SUMMONS AND VERIFIED COMPLAINT

Certification per 22 NYCRR §130-1.1a



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:

Attorney(s) for

Service of a copy of the within _____ is hereby admitted.

Dated: _____

Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a _____ entered in the office of the Clerk of the within named Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. , one of the OF

SETTLEMENT judges of the within named Court, at ,
, on
2019, at M.Dated: Port Washington, New York
September 26, 2019Parker Waichman LLP
Attorneys for Plaintiff(s)